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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	No. CR 05-00323 SBA
)	
12 Plaintiff,)	STIPULATION REGARDING
13 vs.)	SENTENCE REDUCTION UNDER
)	U.S.S.G. AMENDMENT 706 (AS
14 MARCUS ANTONIO FRANKLIN,)	AMENDED BY 711)
)	
15 Defendant.)	
_____)	

16
17 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties acting
18 through their respective counsel, that:

- 19
- 20 1. The Court has indicated that it is making its own motion for a modification of the
21 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).
 - 22 2. In light of the Sentencing Commission's Amendment to § 2D1.1 of the guidelines
23 (Amendment 706, as amended by Amendment 711), defendant is eligible for a sentence
24 reduction under 18 U.S.C. § 3582(c).
 - 25 3. Defendant's original guideline calculation was as follows:
26 Total Offense Level: 25

1 Criminal History Category: II

2 Guideline Range: 63-78

3 Mandatory Minimum: 60 months

4 4. Defendant was sentenced to 63 months imprisonment on October 18, 2005.

5 5. Defendant's revised guideline calculation is as follows:

6 Total Offense Level: 23

7 Criminal History Category: II

8 Guideline Range: 51-63

9 6. The parties have no reason to dispute the Reduction of Sentence Report submitted to the
10 Court by the probation office.

11 7. Defendant's current projected release date is August 10, 2008.

12 8. The parties stipulate that defendant's sentence should be reduced to 60 months.

13 9. The parties further stipulate that all other aspects of the original judgment order,
14 including the length of term of supervised release, all conditions of supervision, fines,
15 restitution, and special assessment remain as previously imposed.

16 10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant
17 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220
18 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*,
19 472 F.3d 1167 (9th Cir. 2007).

20 11. Defendant waives his right to appeal the district court's sentence.

21 12. Accordingly, the parties agree and stipulate that an amended judgement may be entered
22 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and

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1 USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines*
2 *Manual*.

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4 IT IS SO STIPULATED:

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6 Date:

Rebecca Sullivan Silbert
Counsel for Marcus Antonio Franklin

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9 Date:

Brian Stretch
Assistant United States Attorney

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13 **ORDER**

14
15 Based on the above stipulation, the Court hereby ORDERS the following:

- 16 1. The Court is making its own motion for a modification of the defendant's sentence
17 pursuant to 18 U.S.C. § 3582(c)(2).
18
19 2. **The original Judgment in the above-captioned case is AMENDED to reduce the**
20 **term of imprisonment to 60 months.** All other aspects of the original judgment,
21 including the length of term of supervised release, all conditions of supervision, fines,
22 restitution, and special assessment remain as previously imposed.
23 3. Defendant's original guideline calculation was as follows:
24 Total Offense Level: 25
25 Criminal History Category: II
26 Guideline Range: 63-78

1 Mandatory Minimum: 60 months

2 Sentence Imposed: 63 months

3 4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
4 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
5 Guidelines Manual;

6 5. Defendant's revised guideline calculation is as follows:

7 Total Offense Level: 23


8 Criminal History Category: II

9 Guideline Range: 51-63

10 6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,
11 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v.*
12 *United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir.
13 2007).

14 7. Defendant has waived his right to appeal the sentence imposed by this Order.

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17 Date: 8/12/08


Honorable Sandra Brown Armstrong
Judge, United States District Court